



*Faculty – Unopposed petition for the reservation of a double, full burial, gravespace within the churchyard – Petitioners, aged 79 and 81, both resident within the parish and on the church electoral roll – Sufficient space remains within the churchyard for some five years’ future burials but additional land is available for consecration when the present churchyard is full – PCC resolving in July 2023 not to support any new grave reservations except for existing graves – Vicar, churchwarden and PCC not consenting to the petition at first but PCC later resolving to support the application – Whether, and, if so, for what period of time, and on what terms, the petition should be granted – Faculty granted for the usual period of 25 years because of the age of the petitioners and the availability of additional land for future burials*

**Petition No: 13 of 2025**

**IN THE CONSISTORY COURT OF  
THE DIOCESE OF BLACKBURN**

Date: Easter Monday, 21 April 2025

**Before:**

**THE WORSHIPFUL DAVID HODGE KC, CHANCELLOR**

**In the matter of:**

**St Paul, Caton-with-Littledale**

**THE PETITION OF:**

**Mrs Jean Wallace and Mr Edward Wallace**

This is an unopposed petition determined on the papers and without a hearing

There were no formal objections to the petition. Initially the vicar, the churchwardens, and the PCC all withheld their consent to the petition. However, the PCC later resolved to support it.

The following authorities are referred to in the judgment:

*Re St Paul, Caton-with-Littledale* [2023] ECC Bla 6

*Re St Paul, Caton-with-Littledale* [2024] ECC Bla 2

## JUDGMENT

### Introduction and background

1. Within the last 18 months I have delivered two written judgments on two separate applications for faculties seeking the reservation of separate full burial plots within the churchyard of St Paul, in the Parish of Caton-with-Littledale, for the usual period (in this diocese) of 25 years. In the first case, which bears the neutral citation number **[2023] ECC Bla 6**, the joint petitioners were 66 and 78 years of age. Both were resident in the parish, but neither was entered on the church electoral roll. In the second case, which bears the neutral citation number **[2024] ECC Bla 2**, the petitioner was 51 years of age. Sadly, he enjoys a limited life expectancy of only some seven to ten years. He was resident in the parish, and his name was entered on the church electoral roll. In each case, I granted a faculty for an initial duration of only seven years, but with permission for the petitioner(s) to apply by letter (and for no further fee), within the last year of the term of the faculty, for its duration to be extended. The reason for these time-limited grants was because the churchyard only had sufficient space available for further burials for about another five to seven years. I was therefore concerned to ensure that neither reservation should prejudice other parishioners with rights of burial within the churchyard. This was against the background that additional land (currently used as a recreational area) is available for consecration when the present churchyard is full.

2. By a joint petition, dated 16 February 2025, Mr and Mrs Wallace, who are 81 and 79 years of age respectively, seek a faculty reserving a double burial plot within the churchyard for the interment of their human remains for the usual period (in this diocese) of 25 years. Both petitioners reside in the parish; and their names are entered on the church electoral roll. In their petition, Mr and Mrs Wallace explain that they have been active members of the church for 57 years, and that it holds a very special place in their lives. They have relatives buried within the churchyard: a sister and a niece, and both of Mrs Wallace's parents (William and Grace Tye). The petitioners say that they would like to be at rest with their family.

3. According to the section of the petition signed by the incumbent vicar, the present churchyard will be full in five years. However, there is additional land belonging to the church that is available for consecration when the present churchyard is full. This would enable burials to continue for another 50 to 75 years. The incumbent, the churchwardens, and the Parochial Church Council (the **PCC**) are all recorded as having refused their consent to this petition. That response follows on from a meeting of the PCC which was held on 31 July 2023 and attended by

the incumbent vicar, the PCC secretary, two deanery synod members (one also a churchwarden), and five other PCC members. The minutes of this meeting record (at item 07, under the heading 'Graveyard update') that the PCC had a discussion "about the granting of faculties. It was decided that the PCC will not support new faculties except for those of existing graves. A vote was taken that supported this action."

4. However, following discussions at the end of a meeting of the PCC held on the evening of Tuesday 8 April 2025 (and attended by the same incumbent and churchwarden as were present at the July 2023 PCC meeting), the PCC agreed that they would support Mr and Mrs Wallace's present application for a gravespace reservation. I understand from the Registry Clerk that the PCC were willing to make this exception to their previous policy because of the petitioners' relationship with the church. In response to queries I have submitted through the Registry, the incumbent has also explained that 25 gravespaces remain available for future burials within the churchyard. Three of these are subject to existing grave reservations. The average number of burials is four a year. The church have a piece of land covenanted for use as a graveyard, so they would simply need to set about the process of having this land consecrated for use as a burial ground. This process can be started once the parish recognize a present need for this over the next couple of years.

5. The incumbent minister has certified that the usual public notices were duly displayed during the period from 5 March to 3 April 2025 (inclusive). No formal objections have been received to this petition.

6. When the papers were first referred to me, on 4 April 2025, I formed the provisional view, pursuant to rule 14.1 of the Faculty Jurisdiction Rules 2015 (as amended), that, having regard to the overriding objective in Part 1 of the Rules of dealing with this case justly, cost-effectively, proportionately, expeditiously and fairly, that it was expedient to direct that this petition should be determined on consideration of written representations, instead of by way of a hearing. I therefore directed the Registry to write to the petitioners, the incumbent, and the PCC inviting them, within 14 days, to submit in writing their views on that course; and, if they were so content, to supply any written representations upon which any of them might wish to rely in support of, or in opposition to, this petition. If this had not already been done, I also directed that they should be supplied with copies of my two recent decisions concerning the reservation of full burial plots in this churchyard. I have received no objection to these directions, nor any response beyond the matters recorded at paragraph 4 of this judgment.

7. I have set out my understanding of the principles which should govern the determination of any petition that seeks a faculty for the reservation of a grave space in my two earlier judgments concerning this churchyard (referenced above). There I identified two consistent themes which seem to me to run through all the authorities:

*First, where a PCC have adopted a policy governing the reservation of gravespaces that is considered to be reasonable and fair, it would not be right to override that policy unless there is an exceptional reason for doing so. Secondly, where the remaining space within the churchyard is limited, it will not usually be right to extend the duration of any reservation faculty beyond the period for which the churchyard is likely to continue to have space for burials.*

Such a time limitation is appropriate because of the risk that any longer period may prejudice the rights of those parishioners or worshippers who would otherwise be entitled to be buried in the

relevant churchyard. When determining any individual petition, however, the court's decision is likely to turn upon case-specific factors, rather than any inflexible rules. In any individual case, the remaining capacity of the churchyard, and (because of its relevance to the petitioner's life expectancy), the age of the petitioner, are likely to be of crucial importance.

8. These petitioners have a long-standing, and close, connection with this parish, this church, and this churchyard. Both of them have a present right of burial in the churchyard, and very good reasons for wishing to be buried there. But for the limited capacity of the churchyard, this would be a classic case for granting a gravespace reservation for the usual period of 25 years, thereby affirming the petitioners' rights to be buried in their parish churchyard. Because of the limited number of burial spaces remaining within the existing churchyard, sound reasons underlie the PCC's relatively recently adopted policy of not supporting any new reservation faculties for full burial spaces, except in existing gravespaces. However, the PCC (including the incumbent vicar and the churchwarden) have been prepared to make an exception to this policy in the case of this petition. Presumably they have done so on the basis of their assessment of the merits of the petitioners' claim to one of the limited grave spaces remaining within the churchyard, and also in the expectation that further grave capacity will become available as the existing supply of gravespaces approaches exhaustion. From my two earlier judgments, the PCC are clearly fully alive to the relevant issues and the principles that properly fall to be applied in resolving them. They are almost certainly better qualified than this court to weigh these issues properly in the balance. I am satisfied that this is clearly a case where the court should accede to the petitioners' application for a gravespace reservation. The only live question is for how long that reservation should last.

9. In each of my two previous decisions concerning this churchyard, I granted a faculty for an initial duration of only seven years, but with permission for the petitioner(s) to apply by letter (and for no further fee), within the last year of the term of the faculty, for its duration to be extended. I have considered whether I should do the same in the present case. However, I have concluded that in the present case, I should grant a faculty for the full period of 25 years. I do so because of the age of each petitioner. One is now 81, and the other is 79, years of age. It would not be fair, just, or convenient to expect them to have to apply for an extension of this faculty at a time when they will be in their mid to late 80s. Nor would it be fair, just, or convenient to expose them, during their final years, to the constant worry and fear that such an extension might not be granted, or require them to bear in mind the need to make such an application in due time. I recognise the need for consistency of approach, and for like cases to be treated alike. But, because of their different ages, the situation of these joint petitioners is qualitatively different from that of the petitioners in the two earlier cases. Their position is also different because of the support that their petitions have received from the PCC (including the incumbent and churchwarden).

10. Once again, this decision is based upon case-specific factors, rather than any inflexible rules. It will therefore have no prejudicial effect in terms of creating any precedent for other petitions that may be presented in respect of this churchyard. Whilst I acknowledge that this is the third occasion on which I have granted a grave reservation for this particular churchyard in successive years, despite its limited remaining capacity, in each case there have been sound reasons for doing so. In the view of the PCC, Mr and Mrs Wallace are at least as deserving of a gravespace reservation as the petitioners in the two earlier cases.

11. For these reasons, I will grant the faculty as asked for the usual period of 25 years from the date of the grant. The faculty will be subject to the following conditions:

- (1) The benefit of the reservation is personal to the joint petitioners, and is non-assignable.
- (2) Any fees payable under the current diocesan parochial fees order must be paid to the minister and the PCC of the parish within 56 days of the grant of this faculty.
- (3) The reservation shall be for the period of 25 years from the date of the grant of the faculty.
- (4) The reservation shall be recorded in the parish records; and the location of the reserved grave plot shall be marked on the ground by a suitable, and durable, marker.

12. The petitioners will bear the costs of this petition.

*David R. Hodge*

The Worshipful Chancellor Hodge KC

Easter Monday

21 April 2025